

Senate Bill 11

By: Senators Shafer of the 48th, Douglas of the 17th, Harp of the 29th, Wiles of the 37th,
Reed of the 35th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 provide that judges of superior and state courts who are performing ordered military duty
3 may continue in office and be eligible for reelection during such duty; to provide for
4 qualifying for election by mail, messenger, or agent during such duty; to provide that
5 performing ordered military duty shall be a basis for requesting assistance from other courts;
6 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking
11 subsection (b) of Code Section 15-1-9.1, relating to requesting judicial assistance from other
12 courts, and inserting in lieu thereof a new subsection (b) to read as follows:

13 "(b)(1) If assistance is needed from a judge outside of the county, a superior court judge
14 of this state or the chief judge of a class of courts other than an appellate court may make
15 a request for judicial assistance in the court served by said requesting judge to the
16 administrative judge of the judicial administrative district in which said requesting
17 judge's court is located, if any of the following circumstances arises:

18 (A) A judge of the requesting court is disqualified for any cause from presiding in any
19 matter pending before the court;

20 (B) A judge of the requesting court is unable to preside because of disability, illness,
21 or absence; or

22 (C) A judge of the requesting court is unable to preside because such judge is
23 performing ordered military duty as such term is defined in Code Section 38-2-279; or

24 (D) A majority of the judges of the requesting court determines that the business of the
25 court requires the temporary assistance of an additional judge or additional judges.

(2) If assistance is needed from a judge from the same county, the chief judge of any court within such county of this state may make a written request for assistance to the chief judge of any other court within such county, a senior judge of the superior court, a retired judge, or a judge emeritus of any court within the county. The request by the chief judge may be made if one of the following circumstances arises:

(A) A judge of the requesting court is disqualified for any cause from presiding in any matter pending before the court;

(B) A judge of the requesting court is unable to preside because of disability, illness, or absence;

(C) A judge of the requesting court is unable to preside because such judge is performing ordered military duty as such term is defined in Code Section 38-2-279;

(D) A majority of the judges of the requesting court determines that the business of the court requires the temporary assistance of an additional judge or additional judges; or

~~(D)~~(E) A majority of the judges of the requesting court determines that the business of the court requires the permanent assistance of an additional judge or additional judges.

If the requesting court is a state or superior court, the assisting judge or assisting judges may hear and decide matters otherwise in the exclusive jurisdiction of the state or superior court without regard to time, type of case, or limitations contained in the rules of such state or superior court; provided, however, that a chief magistrate or magistrate may serve as a permanent assisting judge only in counties having a population of 180,000 or more according to the United States decennial census of 1990 or any future such census.

(3) When a petition for habeas corpus is filed challenging for the first time state court proceedings resulting in a death sentence, the clerk of the superior court acting on behalf of the chief judge shall make a request for judicial assistance to the president of The Council of Superior Court Judges of Georgia. Within 30 days of receipt of a request for judicial assistance, the president of The Council of Superior Court Judges of Georgia shall, under guidelines promulgated by the executive committee of said council, assign the case to a judge of a circuit other than the circuit in which the conviction and sentence were imposed.

(4) In petitions under this article challenging for a second or subsequent time a state court proceeding resulting in a death sentence, the chief judge of the court where the petition is filed may make a request for judicial assistance to the president of The Council of Superior Court Judges of Georgia upon certifying that the business of the court will be impaired unless assistance is obtained. Within 30 days of receipt of a request for judicial assistance, the president of The Council of Superior Court Judges of Georgia shall, under guidelines promulgated by the executive committee of said council, assign

1 the case to a judge of a circuit other than the circuit in which the conviction and sentence
2 were imposed."

3 **SECTION 2.**

4 Said title is further amended by adding a new Code Section 15-6-11 to read as follows:

5 "15-6-11.

6 (a) Any judge of superior court who is performing ordered military duty, as defined in
7 Code Section 38-2-279, shall be eligible for reelection in any primary or general election
8 which may be held to elect a successor for the next term of office, and may qualify in
9 absentia as a candidate for reelection to such office. The performance of ordered military
10 duty shall not create a vacancy in such office during the term for which such judge was
11 elected.

12 (b) Where the giving of written notice of candidacy is required, any judge of superior court
13 who is performing ordered military duty may deliver such notice by mail, agent, or
14 messenger to the proper elections official. Any other act required by law of a candidate for
15 public office may, during the time such official is on ordered military duty, be performed
16 by an agent designated in writing by the absent public official."

17 **SECTION 3.**

18 Said title is further amended by striking Code Section 15-7-24, which was designated as
19 "Reserved," and inserting in its place a new Code Section 15-7-24 to read as follows:

20 "15-7-24.

21 (a) Any judge of state court who is performing ordered military duty, as defined in Code
22 Section 38-2-279, shall be eligible for reelection in any primary or general election which
23 may be held to elect a successor for the next term of office, and may qualify in absentia as
24 a candidate for reelection to such office. The performance of ordered military duty shall
25 not create a vacancy in such office during the term for which such judge was elected.

26 (b) Where the giving of written notice of candidacy is required, any judge of state court
27 who is performing ordered military duty may deliver such notice by mail, agent, or
28 messenger to the proper elections official. Any other act required by law of a candidate for
29 public office may, during the time such official is on ordered military duty, be performed
30 by an agent designated in writing by the absent public official."

31 **SECTION 4.**

32 This Act shall become effective upon its approval by the Governor or upon its becoming law
33 without such approval.

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- SECTION 5.
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- All laws and parts of laws in conflict with this Act are repealed.